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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,158	03/12/2004	Patrick J. DeBusk	7208	9536
7590	09/20/2005			
Steve M. McLary Grahic Packaging International Inc. 814 Livingston Court Marietta, GA 30067			EXAMINER ELKINS, GARY E	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/799,158	DEBUSK ET AL.	
	Examiner	Art Unit	
	Gary E. Elkins	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20050705</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following are each a double inclusion of an element in the claims: each of claims 1, 8 and 10, lines 4 and 5, “an end panel” and “an adjoining side panel” and claim 3, lines 4 and 5, “a side section”.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Stone.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone in view of Schmissrauter. Stone discloses all structure of the claimed carton except locking shoulders on the locking slit and tuck flap. Schmissrauter teaches that it is known to make

locking shoulders on a locking slit (40) and an inserted tuck flap (39) to facilitate a secure locking of closure flaps. It would have been obvious to make the tuck flap and locking slit in Stone as taught by Schmissrauter to provide a more secure lock upon reclosure.

6. Claims 1, 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Axberg in view of Lock and any one of Maieron, Hunt (GB '968) or Keitaku (JP '251). Axberg discloses all structure of the claimed carton except bottom closing means and a tear strip in the tear flap (Axberg discloses a tear line 26). Lock teaches that it is known to make the bottom of a box with closing means comprising glued flaps. Each of Maieron, Hunt and Keitaku teaches that it is known to make a tear flap in a carton using a tear strip. It would have been obvious to make the bottom of the carton in Axberg using glued closure flaps as taught by Lock. Glued closure flaps are notoriously well known in this art. It would have been obvious to substitute a tear strip for the tear line in Axberg as taught by any one of Maieron, Hunt or Keitaku to allow easier tearing of the flap by hand. Both tear strips and tear lines are well known and used in this art.

7. Claims 3 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1 and 2 in paragraph 6 above, and further in view of Schmissrauter. Modified Axberg evidences all structure of the claimed carton and blank except locking shoulders on the locking slit and tuck flap. Schmissrauter teaches that it is known to make locking shoulders on a locking slit (40) and an inserted tuck flap (39) to facilitate a secure locking of closure flaps. It would have been obvious to make the tuck flap and locking slit in Axberg as taught by Schmissrauter to provide a more secure lock upon reclosure.

8. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 in paragraph 6 above, and further in view of Andrews et al. Modified Axberg evidences all structure of the claimed carton and blank except forming one of the end panels as a seam, i.e. by using two overlapping panels. Andrews et al teaches that it is known to form an end panel seam to secure a tubular carton together. It would have been obvious to make the carton and blank of Axberg with an overlapping end panel seam as taught by Andrews et al to secure the carton together. Overlapping end seams are well known in this art.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 10 above, and further in view of Schmissrauter. Modified Axberg evidences all structure of the claimed carton and blank except locking shoulders on the locking slit and tuck flap. Schmissrauter teaches that it is known to make locking shoulders on a locking slit (40) and an inserted tuck flap (39) to facilitate a secure locking of closure flaps. It would have been obvious to make the tuck flap and locking slit in Axberg as taught by Schmissrauter to provide a more secure lock upon reclosure.

Conclusion

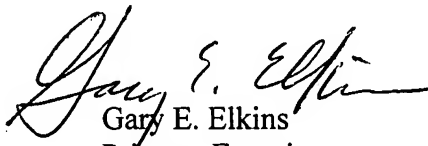
The remaining cited prior art is illustrative of the general state of the art.

In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (571)273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday through Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at (571)272-4544.


Gary E. Elkins
Primary Examiner
Art Unit 3727

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19 September 2005